



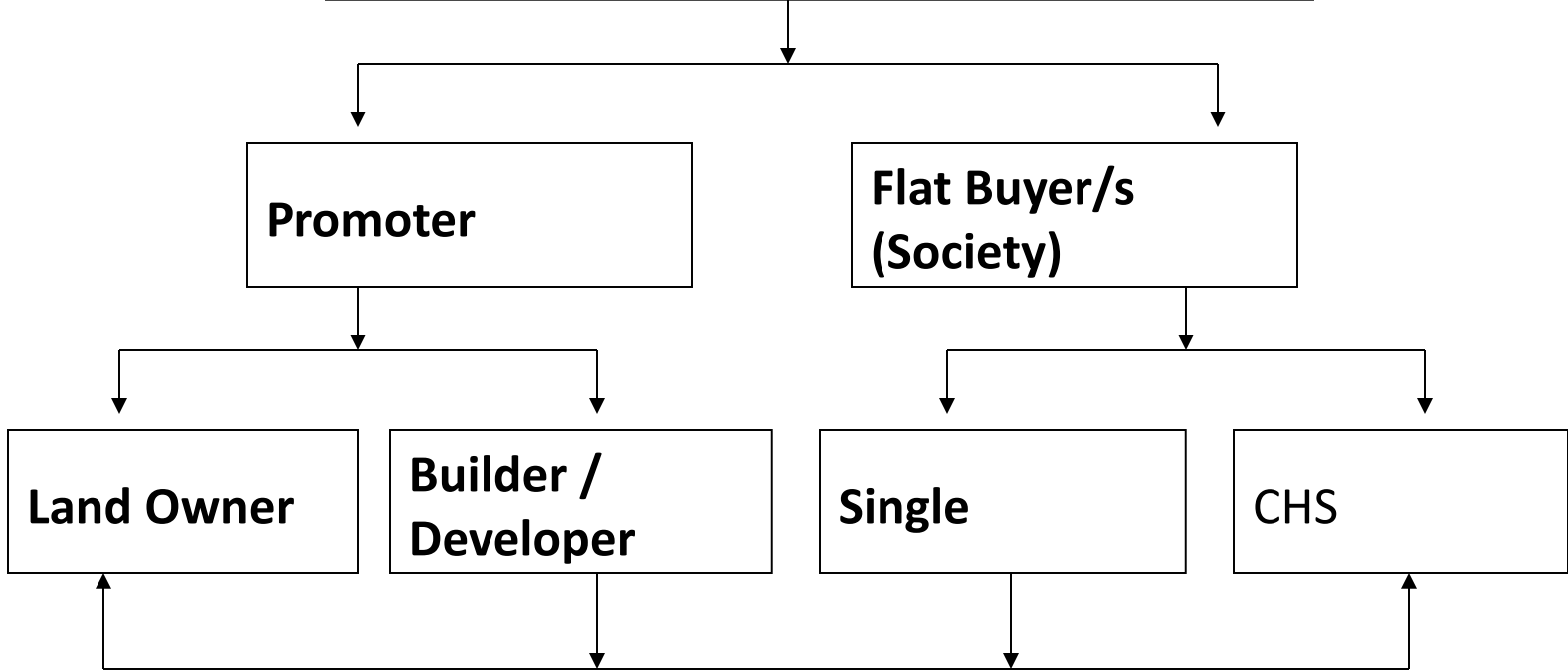
# Deemed Conveyance: Procedure and Practical Approach



- **Adv. Ameet V. Mehta &**
- **Hitesh Rajpurohit**
- **M/s. Solicis Lex**
- **Advocates and Solicitors**



# PARTIES INVOLVED IN DISPUTE





## **DEEMED CONVEYANCE OBJECTS AND DEFINITION**

- **Meaning of Deemed Conveyance :**  
**It is the Document which confirms the Ownership of title of land and building of the Society.**
- **Objects :**
  - **To become the legal owner of Land on which society stands, so that society will be in a position to redevelop itself.**
  - **To enter name of the Society on PR Card**
  - **Utilize Benefits of Land in form of FSI and TDR**



## **ADVANTAGE OF CONVEYANCE**

- **Transfer of Ownership Rights over the land it is constructed on.**
- **All Commercial benefits come to Society including revenues from Hoardings etc.**
- **Appreciation of Property.**
- **Loan can be raised by mortgage.**
- **Balance FSI/TDR can be utilized for benefit of society.**
- **Society can go for redevelopment on its own terms and expect better offers from reputed developers**

HAVE YOU READ SOMETHING LIKE THIS ?

CITY

# Residents send builder to custody

▶ PAGE 1

# RESIDENTS SEND BUILDER TO JAIL

Bhandup builder arrested for cheating after residents file police complaint saying he has failed to provide them basic amenities

Rane said he had moved into the building in July last year. At that time, work on the building was not over, Rane said, adding that the builder then promised that everything would be in place soon. However, almost a year had now passed without anything happening, Rane said, so he decided to approach the police.

Booking for the complex that has six wings (A-F) began in 1998. Residents were given possession in phases since 2001, though the work is still incomplete and the BMC has still not granted occupation and completion certificates.

Residents alleged that the builder asked them to take possession of the flats before they could get the necessary certificates. Sharma threatened us that if we did not take possession of the flats as they were, he would cancel our agreements. We were left with no choice but to come here as we had put in our hard-earned money on the flat," Sudhir Thokal, a resident of A-Wing said.

All residents paid between Rs 60,000-Rs 80,000 in advance, depending on the area of the flat, for amenities. The builder in his agreement said the amenities would include a water and power connection, a compound wall, lifts and a garden with a play area for children.

However, residents alleged that hardly anything was in place now. "The A and C wings do not have a legal water connection. There is absolutely no drainage system in the complex. There is also no compound wall, and A, B, C and D wing get electricity from a common commercial meter. The children's play area is a mound of debris. What's more, the A wing that has 7 floors does not even have a lift," secretary of the proposed Usha Complex Co-Operative Housing Society, R Padwal, said.

"We have been doing the rounds of the building since we moved in. We have been doing the rounds of the building since we moved in. We have been doing the rounds of the building since we moved in."

HEAR THIS ONE



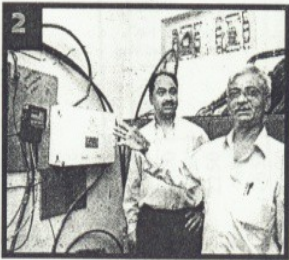
There is no lift in my wing, which has seven floors. For the first three months after we moved in there were no gates to the lift. It was only when we told the builder that our children could fall through the gap did he install the gates. There are aged people who have to climb so many floors everyday.

— Sudhir Thokal, resident of A-wing



The building does not even have a compound wall, during the floods the garbage from the adjoining 'nullah' was strewn across the compound. We spent Rs 40,000 only to clean that up and make a temporary drainage system. We've also spent Rs 18000 on wiring since A, B, C and D-wing had no metre connection. Plus we also have given water connections to A and C-wing.

— R R Padwal, secretary of the ad-hoc housing society



PHOTOS: SHRIYA PATIL

1 Usha Complex in Bhandup that the builder left incomplete 2 Residents point to the metre box through which all four wings of the society get electricity at commercial rates 3 Avinash Rane, a resident of Usha Complex, who took on the builder 4 Builder Muktinath Sharma, who got himself admitted to MT Agarwal Hospital complaining of high blood pressure just hours after being remanded to police custody

ADITI SHARMA

Builders who promise flat buyers the world and then deliver hardly anything now have reason to be ware. Residents of a newly constructed complex in Bhandup have sent their builder to jail for failing to provide basic amenities even a year after the six-wing complex came up.

The builder, Muktinath Sharma of Shree Sai Constructions that

has constructed Usha Complex on Village Road, Bhandup (W), was arrested on Tuesday and booked under Sections 420 (cheating), 406 (criminal breach of trust) and 114 (abettor present when an offence is committed) of the Indian Penal Code. His sons Vinod and Dinesh Sharma too have been booked under the same sections. Police said they are absconding.

Produced in court on Wednesday, Sharma was sentenced to two

days in police custody but complained of uneasiness and has since been admitted to MT Agarwal Hospital in Mulund.

The police action came on a complaint filed by Avinash Rane, a resident of B-Wing of Usha Complex. According to the complaint, the builder had failed to provide power meters and lifts and not even painted the walls despite having taken Rs 60,200 for providing various facilities.

TURN TO PAGE 4

# DC will help great deal if there are situations like these

## Building collapse kills 14

30-YEAR-OLD STRUCTURE IN BORIVLI TOPPLES, 60 FEARED TRAPPED IN THE DEBRIS

Megha Sood & Presley Thomas  
Mumbai, July 18

AT LEAST 14 people were killed and 18 injured when two wings of a 30-year-old seven-storey residential building in Borivli crumbled on Thursday.

More than 60 people are feared trapped in the debris, though Deputy Chief Minister R.R. Patil told *HT* that figure is closer to 100.

Suburban Collector Vishwas Patil added that some of the people trapped had been contacted on their cellphones and efforts were on to rescue them.

Home to 56 families, the A and B wings of Laxmi Chhaya Building at Babhai Naka collapsed like a pack of cards at 6.15 pm.

The 24 families living in the third wing have been evacuated.

"The residents had recently installed an additional tank on the terrace of the building and made structural changes for the same,"



PRASAD GORI

### DUST TO DUST

Earth movers try to clear the debris of seven-storey Laxmi Chhaya Building in Borivli.

said Municipal Commissioner Jairaj Phatak. "The building may have crumbled due to the pressure of this tank."

Mayor Shubha Raul, however, said that jewellers who owned shops on the ground floor had il-

### BUILDING TANKS

Civic officials said an extra water tank set up on top of the building could have caused it to topple.

legally built a room underground, despite residents' protests, which may have led to the collapse.

Chief Minister Vilasrao Deshmukh has announced compensation of Rs 1 lakh for the kin of

### IN NICK OF TIME

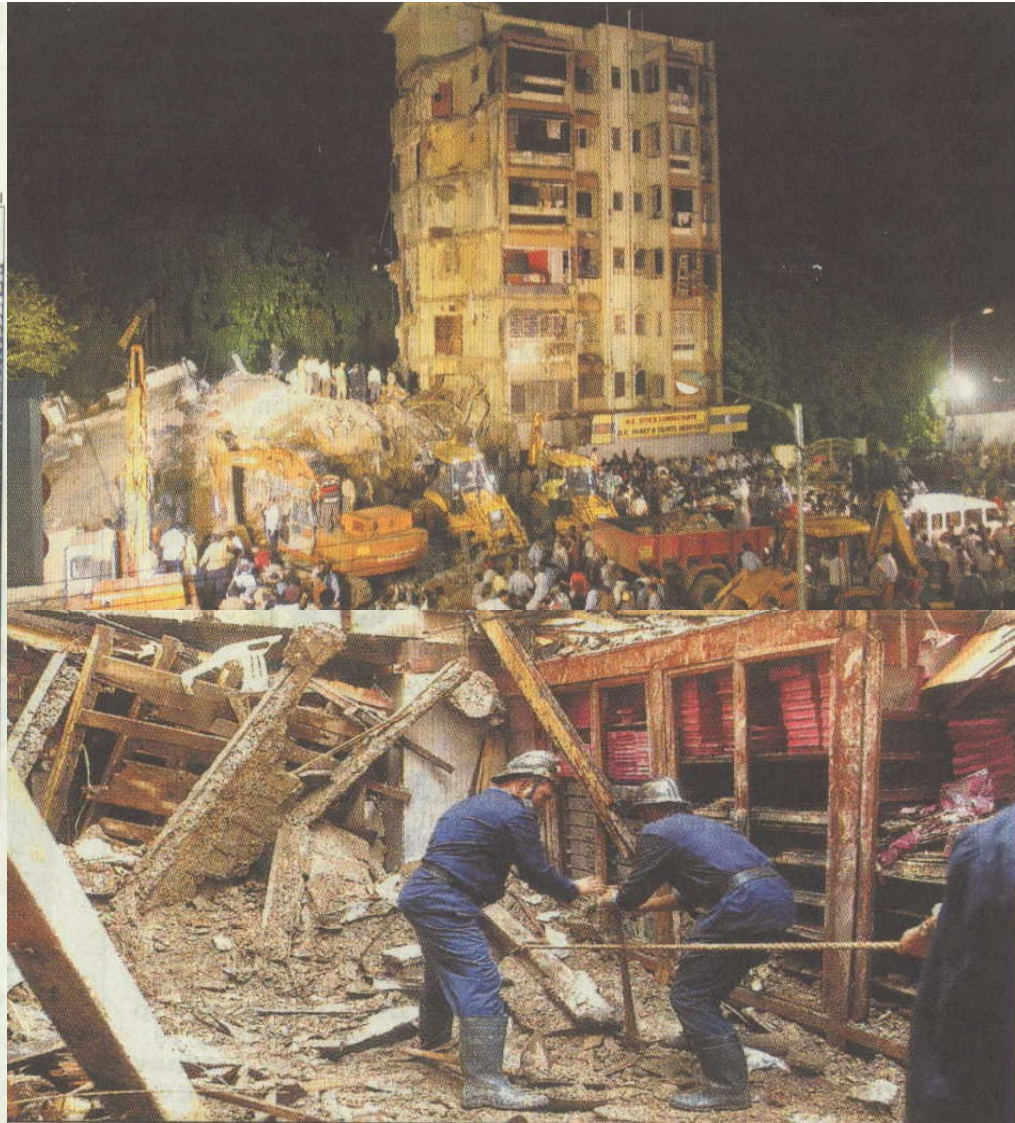
About 18 people have been rescued and sent to nearby Bhagwati Hospital.

those who have died, and Rs 50,000 for those injured.

He has also ordered an inquiry by a magistrate into the collapse.

[megha.sood@hindustantimes.com](mailto:megha.sood@hindustantimes.com)

» FULL REPORT, PAGE 3



**District Deputy Registrar, Co-operative Societies, Mumbai City (3)**  
**Office of the Competent Authority**  
 under section 5A of the Maharashtra Ownership Flats Act, 1963,  
 MHADA Building, Ground Floor, Room No. 69, Bandra (E), Mumbai 400 051

**Check List for the Application for Deemed Conveyance**

Documents should be certified and authenticated as true copies by the competent authorities who issue them.

Sr. no	Documents required	Act	Rules	Form
1.	Index – The application and documents enclosed should be indexed properly and neatly. Paging should be done in a neat and tidy manner.			
2.	Application should be in Form VII prescribed in the Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer), Rules 2010.	Sec.11(3)	Rule 11(1)(a)	Form VII
3.	The prescribed court fee stamp of Rs. 2,000/- should be affixed.		Rule 11(1)(c)	
4.	The application should be notarized.			Form VII
5.	The certified copy of the resolution for the application for deemed conveyance.			Form VII + MCS.Act 1960
6.	The certified/ attested proof of registration of organisation seeking conveyance			Form VII + MCS.Act 1960
7.	True copy of the one registered agreement for sale executed with the promoter, by flat purchaser	Sec.11(3)		
8.	The authority letter on stamp paper of Rs.100/- in case of Authorised Person OR Vakalatnama		Rule 11(1)(b)	
9.	The latest Property card	--"		
10.	The building/ structure plan with area statement approved by local authority + Tenement statement/ IOD Certificate/ Commencement certificate/ Occupation certificate (if any) / Completion certificate.	--"		
11.	The actual list of flats and/or shops and/or garages etc. and the details of payment of stamp duty and registration with the proof of Stamp Duty & Registration Fees .			Form VII
12.	The architect's certificate (wherever necessary) regarding the plan approval and use of FSI .			
13.	The list of buildings/ societies and their addresses in the complex (if applicable) .			
14.	Copy of legal notice sent to the promoter and the interested parties to execute conveyance deed in favour of the applicant .			
15.	The affidavit from the authorised representative/ the secretary of the society that all the documents submitted are true, and the affidavit by the secretary of the society or otherwise stating that the applicant has not approached any other forum for Deemed Conveyance.			

Sd/-  
 Competent Authority  
 U/S 5A of the MOFA- 1963,  
 District Deputy Registrar,  
 Co-operative Societies (3), Mumbai

# PROCEDURE OF DEEMED CONVEYANCE, PRACTICAL DIFFICULTIES INVOLVED AND

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## **APPLICATION, NOTICES TO PARTIES and SEQUENCES**

First step is to send notice to Builder/ Land Owner  
Ensure you have acknowledgements and Postal AD, track records.  
Take Acknowledgement to Applications submitted to Registrar  
(Submission of Form VII)  
Filing procedure to be followed.  
Compliance as per form No. VIII  
Issue public notice inviting claims, if need be. Depends whether you wish  
to give it in any prominent newspaper  
If the notice is not served on the builders/ opponents, then misjoinder of parties may  
open  
Manage the Registrar  
Manage sequence



## PROCEDURE FOR HEARING

- (a) On receipt of reply from Opponent/s, the Applicant to prove his contents and deal with opponents reply. Opponent may file written say on next date. No cross examination allowed.
- (b) On receipt of replies, DDR may hear oral Arguments of the parties and close the proceedings.
- (c) Within 6 months after making such enquiries, verifying the authenticity of documents and giving sufficient hearing as per law of natural justice to the parties, pass such order as he may deem fit.



# **JUDGEMENT, ORDER & CERTIFICATE**

**SPEAKING ORDER & CERTIFICATE THAT THE APPLICANT  
CASE IS A FIT CASE ON GETTING UNILATERAL  
CONVEYANCE WILL BE ISSUED BY THE COMPETENT  
AUTHORITY I.E THE DDR**



## **REGISTRATION OF DEEMED CONVEYANCE**

- **Prepare Deed of Conveyance as per the Deemed Conveyance Order**
- **Process of Adjudication of individual agreements and Lodge for Registration with Sub Registrar.**
- **Sub Registrar to issue Show Cause Notice to Builder & Landlord and the decides the fate of registering the Conveyance Deed**



## Very Important for payment of stamp duty

No. 5 / Stamp Duty 06 / Ltr. No. 58/06/1224

Inspector General at Registration & Stamp

Maharashtra State, Pune Office, Pune.

To,

Date : 10/08/2006

The Superintendent of Stamps,

Mumbai.

**Sub : Levy of Stamp Duty on the Deeds of Agreements made prior to 10/12/1985**

**Reference: Your Letter No.BOM/5064/06 dtd. 03/08/2006**

Referring to the points raised in the above letter we explain as follows :

On the Sale Agreements executed before 10/12/1985, Stamp Duty applicable was as per the article 5(h) of Bombay Stamp Duty Act, 1958 and not as per Article 25 of the Act. This is as per the judgment given by Honorable Mumbai High Court in the case of Padma Nair V/S Dy. Collector, Stamps & Adjudication and others.

If the State Agreements executed before 10/12/1985 are submitted under Article

21, the Collector of Stamps is not liable to levy Stamp Duty on such Agreements under Article



## **KEY ACTS & RULES APPLICABLE**

- **REGISTRATION ACT, 1908 –  
For registration of Conveyance deed**
- **BOMBAY STAMP ACT, 1958 –  
For Stamp Duty Verification and calculation**
- **M.C.S. ACT, 1960 - under which society is registered**
- **INCOME TAX ACT, 1961 –  
To Verify Tax Liabilities of the Vendor**
- **MAH. OWNERSHIP FLATS ACT, 1963-  
under which Flats are purchased**



## Bottlenecks

- ULC- For verifying any violations under the Act
- Criminal Procedure Code / Civil Procedure Code and Consumer Protection Act- For proceeding against the builder
- BMC – Development Control Rules, 1991- For Legality of the Building construction
- LAND REVENUE CODE – Where Land Records Order kept
- BYE-LAWS: Applicable to all the societies



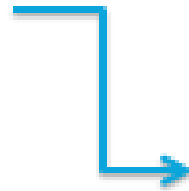
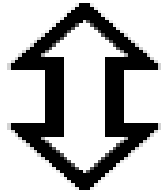
## Practical Difficulties in DC and Solutions

- Non Advocates can appear subject to authority letters.
- Since the process of Deemed Conveyance is related to collection of documents from many departments, we should identify documents to be extracted and cost involved. This shall take about 30 days to retrieve.
- Correct Authority and applications, the biggest task...!!!
- Identifying the proper advocate/professional/consultants for the process of DC. Proper replies in writing and during hearings during the process of DC.



# BRAND GAP - A LAWYERS PERSPECTIVE - HOW DID WE GROW

## THE BRAND



## Gap



IT WILL BE APPROPRIATE TO SAY THAT THE PROCESS OF DC HAS BEEN A BOON TO THE HOUSING SOCIETIES IN THE CITY LIKE MUMBAI.

IT GIVES A POWER TO THE SOCIETIES THEMSELVES TO REDEVELOP AND CAN

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Conclusion



Mumbai-based advocate honoured in USA



(L-R) Rahman Moton, President, Myanmar American Chamber of Commerce, Advocate Ameet Mehta, Richard Nguyen, Council Member, US Congress

Ameet Mehta, a real estate advocate from Mumbai, was awarded the Certificate of Congressional Recognition by Member of USA Congress Sheila Jackson Lee at a function held in India House at Houston, Texas, USA. The award recognizes some of his outstanding achievements in the field. The award was handed over by Richard Nguyen, Council Member; Rahman Moton, President, Myanmar American Chamber of Commerce; Raed Gonzalez, Immigration Attorney, Texas; Angelica Garcia, CEO and President, AIM Global Logistics; Anand Sharma, OF-BJP; Nisha Khanna, Patel, President Overseas Gujarati Group; Mack Ajani, Director, Aishi Tourism and Immigration Services; Sangeta Dua, TV Houston; Rohini Patel; Kuldip Patel; Jyotsna Mehta; Shelly Bhatti; Deepak Bhatti and others.



# DNA Property

MUMBAI | SATURDAY, MARCH 9, 2013 | Page No. 12

## Makeover mantras for anxious Mumbaiers

The DNA Property Redevelopment Conference-cum-Exhibition provided expert insights on the process and what it entails.

**Legal issues involved**  
Advocate Anish Mishra discusses the legal aspects of redevelopment projects, including the role of the Maharashtra Real Estate Regulatory Authority (MREDA).

**Deemed conveyance**  
CA Ramesh P. Deshpande explains the implications of deemed conveyance for property owners and the process of regularization.

**Role of PMC**  
Rajesh Deshpande discusses the role of the Project Management Committee (PMC) in overseeing redevelopment projects.

**New norms and implications**  
Anish Mishra discusses the impact of new government norms on the real estate market and the challenges faced by developers and homeowners.

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## THE PROPERTY SHOW

**100% MORTGAGE LOAN EXPERT VIEW**  
Many banks offer facility of 100% loan. Borrower receives a loan amount equivalent to total value of property.

**COMPOUNDING AWAITED OPTIONS BEFORE YOU**  
If your builder is not co-operating approach a consumer court.

16 **THE DAY CENTRESREAD** 07/11/2012

## THE AUCTION OPTION

Some Frequently Asked Questions (FAQ) about buying a flat, up for auction

**MEET EXPERT**  
Srinivas Paramdham Kolan

**INTERVIEW**  
Srinivas Paramdham Kolan, Director, Mumbai's Court Auctions, explains the pros and cons, and how you can bid for property going under the hammer.

**ACCOUNTS EXECUTIVE**  
**SRINIVAS PARAMDHAM KOLAN**

**ACCOUNTS**  
**KAWSER AHMED**  
**DILIP CHAVAN**  
**VINOD RAJAPPAH**

**LEGAL CONSULTANT**  
**TAPAS GUPTA**  
**AMEET MEHTA**  
(M/S SOLICIS LEX ADVOCATES AND SOLICITORS)

## Whose lift is it, anyway?

Developer animus is growing, as the lift becomes a small, closed battlefield between residents. Expert AMEET MEHTA gives us all the highlights on lifts in residential housing societies.

**CUT & KEEP**  
A warning sign that says 'NO PETS ALLOWED' is shown next to a cartoon illustration of a woman carrying a dog on a leash.

**AN INTERVIEW**  
Ameet Mehta discusses the legal aspects of lift ownership and the responsibilities of the society and the developer.

## IN A FIX

RESIDENTIAL BUILDINGS SUPPOSED TO GO IN FOR REDEVELOPMENT ARE OFTEN STALLED FOR YEARS, PUTTING THOSE WHO LIVED THERE IN A QUANDARY

**THE INTERVIEW**  
Anish Mishra, Advocate, discusses the challenges faced by residents in stalled redevelopment projects and the legal options available to them.

**SOLICIS LEX**

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**Categories of work**

- Mergers, acquisitions  
Anmeet Mehta, Devang Mehta
- Arbitration  
Anmeet Mehta, Omkar Khamlikar
- Joint ventures and private equity  
Devang Mehta, Jaina Shah
- Debt recovery tribunal and banking  
Shweta Sharma, Purni Shah
- Company Law Board  
Devang Mehta, Shweta Sharma
- Civil court disputes  
Tushar Gujjar, Jayshri Manjekar
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- Family Court matters  
Sheetal Pandya, Vaishali Sanghavi
- Deemed conveyance  
Ashwini Parthi, Hitesh Rajgorhalil
- Due diligence and search  
Deepika Modani, Bianca Gomes
- Cyber crime  
Jayesh Boradia, Lokesh Jain
- Co-operative courts and regulatory  
Anisha Singh, Mukesh Gupta

**The LEGAL 500**  
JOHN PRITCHARD

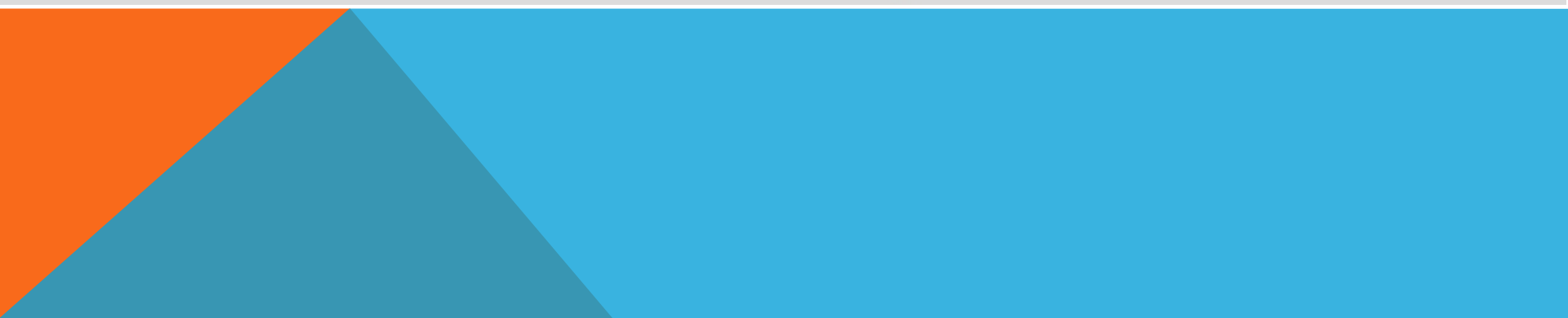
THE CLIENTS' GUIDE TO THE ASIA PACIFIC LEGAL PROFESSION

www.legal500.com



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Thank  
you

